

Safety & Health: The Implementation of the Working Time Directive in the Armed Forces Country experiences: Germany

Kathrin Geyer, Counselor for EU Law & Ulf Haeussler, Head of Division (acting), EU, UN, and NATO Law
Directorate-General for Legal Affairs, Federal Ministry of Defence of the Federal Republic of Germany
(speaking in a personal capacity)

Structure of the Presentation

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Introduction



Equality and its Impact on the Working Time Regime



Foto: Bundeswehr/Martina Pump – Mi., 9. Januar 2019

- Jurisprudence at national level: Federal Administrative Court, 2011
- Facts: soldiers and government civilians working side-by-side
- Legal Assessment:
 - Working Time Directive
 - Equal Treatment

The Development of the Current German Working Time Regime

Analysis:

- factual situation
- legal framework
- implications of possible working time regimes on mission accomplishment

Result:



Bundesgesetzblatt ⁷⁰⁵

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Tag	Inhalt	Seite
13. 5. 2015	Gesetz zur Steigerung der Attraktivität des Dienstes in der Bundeswehr (Bundeswehr-Attraktivitätssteigerungsgesetz – BwAttraktStG) <small>FNA: 2030-25, 2030-32, 2032-1, 2032-1-11-3, 210-7, 454-1, 51-1, 51-1-22, 51-1-27, 51-1-29, 51-11, 53-1, 53-4, 54-2, 860-6, 613-6-1 GESTA: H001</small>	706

Two-Pillar Approach

- Uniformity of working conditions in governmental service
- Peculiarities of military requirements
 - Readiness
 - Training and Exercises
 - Collective Self-Defence and Expeditionary Operations
 - Domestic Emergency Tasks



The Judgment of 15 July 2021

- "National Security"?
Article 4(2) of the Treaty on European Union
- Reconciling Member States' Prerogatives and the scope of EU law



Possible Adaptations: the Working Time Way Ahead

- three different kinds of activities:
 - those to which the Working Time Directive is fully applicable,
 - those regarding which the provisions of the Working Time Directive may be temporarily disregarded, and
 - those excluded in their entirety from the scope of the Working Time Directive.



Conclusions

- Working Time and Fighting Value are interconnected.
- Member States' fundamental security and defence policy choices matter.
- There is a difference between legitimate hardship and inhuman drudgery.